

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF
THE INVESTIGATION OF

FOTH & VAN DYKE AND ASSOCIATES, INC.,

Licensee

MEMORANDUM AND ORDER ON SETTLEMENT CONFERENCE

TO: Foth & Van Dyke and Associates, Inc.
2737 South Ridge Road
P.O. Box 19012
Green Bay, WI 54307-9012

Richard Castelnuovo
Attorney at Law
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

An informal settlement conference was conducted in the above-captioned matter before an informal settlement conference committee of the Engineers Section of the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors on August 8, 1990. The purpose of the conference was to provide interested parties with an opportunity to discuss allegations received pertaining to the practice of Foth & Van Dyke and Associates, Inc., and to attempt to reach a fair and consensual resolution of the matter.

The committee consisted of Jane Pavis, Marvin DeVries, P.E., and Mark Nurczyk, P.E. The licensee appeared by Mr. John C. Hemming, Assistant Secretary and Treasurer. Others present included Richard Castelnuovo, attorney for the Department of Regulation & Licensing, Division of Enforcement, and Wayne Austin, the board's legal counsel.

The parties orally presented their respective positions regarding the matter to the committee, and the committee deliberated on a possible disposition of the matter. The committee thereafter presented a proposed Stipulation for Mr. Hemming's consideration, a copy of which is attached hereto and made a part hereof. The Stipulation was ultimately executed by Mr. Hemming and by Ms. Pavis, as Chair of the Professional Engineers Section.

Based upon the proceedings at the conference, and upon the Stipulation of the parties, the board enters the following order.

ORDER

NOW, THEREFORE, IT IS ORDERED that based on the findings and conclusions in this case, as set forth in the Stipulation of the parties hereto, Foth & Van Dyke and Associates, Inc., be and hereby is, formally reprimanded.

Dated this 7 day of March, 1991.

STATE OF WISCONSIN
EXAMINING OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

by Jane Pavis
Jane Pavis
Chair, Professional Engineers Section

wra:BDLS:685

STATE OF WISCONSIN
BEFORE THE EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF
THE INVESTIGATION OF

FOTH & VAN DYKE AND ASSOCIATES, INC.,

Licensee

STIPULATION

Foth & Van Dyke and Associates, Inc. (licensee), and the Professional Engineer Section of the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors (board), having reached agreement on disposition of the informal complaint identified as 90 Eng 001, agree and stipulate as follows:

1. This Stipulation shall be made a part of a Memorandum and Order on Settlement Conference to be issued by the board, and all terms of the Stipulation shall be binding on the licensee as a part of the board's order.
2. This Stipulation and the board's order shall be placed in the licensee's permanent file, and may be used if there are further complaints against it.
3. The licensee is licensed to engage in the corporate practice of professional engineering in Wisconsin by Certificate of Authorization # 11, and its corporate headquarters is located at 2737 South Ridge Road, P.O. Box 19012, Green Bay, WI 54307.
4. By letter received on January 15, 1986, the board was notified by Attorney Frederick L. Schmidt on behalf of the licensee that effective December 25, 1985, Foth & Van Dyke of Madison, Inc., Foth & Van Dyke of Milwaukee, Inc., Foth & Van Dyke of Eau Claire, Inc., and Foth & Van Dyke Industrial, Inc. were merged into Foth & Van Dyke and Associates, Inc., the licensee herein.
5. On January 31, 1986, the certificates of authorization of each of the merged corporations and of the surviving corporation expired. The licensee failed to renew its certificate of authorization at that time.
6. On or about February 18, 1986, a member of the staff of the Department of Regulation & Licensing notified Attorney Schmidt that the licensee had not renewed its certificate.
7. In October, 1989, the licensee was notified about its failure to renew. On or about October 6, 1989, the licensee filed its application for reinstatement of the expired certificate, and the certificate was thereafter reinstated.

8. Failure of the licensee to renew its certificate of authorization on or before January 31, 1986, resulted in part from confusion arising from the consolidation of the corporations which occurred during that period.

9. In having failed to renew its corporate certificate of authorization between January, 1986, and October, 1989, the licensee has violated Wis. Stats. sec. 443.08(5).

10. The parties agree that appropriate discipline to be imposed in light of the violation found is a formal reprimand.

Dated this 7th day of December, 1990.

FOTH & VAN DYKE AND ASSOCIATES, INC.

by John C. Hemmer

Dated this 7 day of March, 1991.

EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

by Jane R. Pavis
Jane Pavis
Chair, Professional Engineers Section

wra:BDLS-670

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each and the identification
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Board of Architects, Professional Engineers, Designers and Land Surveyors.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Board of Architects, Professional Engineers, Designers and Land Surveyors.

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Board of Architects, Professional Engineers, Designers and Land Surveyors.

The date of mailing of this decision is March 14, 1991.

FILE COPY

STATE OF WISCONSIN
BEFORE THE EXAMINING BOARD OF ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF
THE INVESTIGATION OF

NORMAN HARRISON, R.L.S.,

Licensee

MEMORANDUM AND ORDER ON SETTLEMENT CONFERENCE

TO: Gregory J. Paradise
Attorney at Law
Mohs, MacDonald & Widder
20 North Carroll Street
Madison, WI 53703

Richard Castelnovo
Attorney at Law
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

An informal settlement conference was conducted in the above-captioned matter before an informal settlement conference committee of the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors on November 9, 1990. The purpose of the conference was to provide interested parties with an opportunity to discuss allegations received pertaining to the practice of Mr. Harrison as a land surveyor, and to attempt to reach a fair and consensual resolution of the matter.

The committee consisted of the members of the Land Surveyors Section. Mr. Harrison appeared in person and by Attorney Gregory J. Paradise. Others present included Wayne Austin, the board's legal counsel, and Richard Castelnovo, attorney for the Department of Regulation & Licensing, Division of Enforcement.

The parties orally presented their respective positions regarding the matter to the committee, and the committee deliberated on a possible disposition of the matter. The

committee thereafter presented a proposed Stipulation for Mr. Harrison's consideration, a copy of which is attached hereto and made a part hereof. The Stipulation was ultimately executed by Mr. Harrison, Mr. Paradise, Mr. Castelnovo, and Mr. G. Robert Sheffers, Chairman of the Land Surveyors Section.

Based upon the proceedings at the conference, and upon the Stipulation of the parties, the board enters the following order.

ORDER

NOW, THEREFORE, IT IS ORDERED that based on the findings and conclusions in this case, as set forth in the Stipulation of the parties hereto, Norman Harrison, R.L.S., is hereby reprimanded.

IT IS FURTHER ORDERED that Mr. Harrison shall bring the survey which is the subject of this proceeding into compliance with the signed waiver agreement with the client and into compliance with the certification on the survey map, and that Mr. Harrison shall file the corrected survey in the office of the county surveyor.

IT IS FURTHER ORDERED that should further complaints be received by the Land Surveyors Section wherein it is alleged that prior to January 1, 1991, and in the course of Mr. Harrison's employment with Mortgage Survey Associates, he has performed mortgage surveys similar to the survey which is the subject of this proceeding, and that such surveys fail to meet the requirements of Wis. Adm. Code sec. A-E 5.01(1)(b) in the same manner as has been found herein, Mr. Harrison shall bring any such surveys into compliance with the waiver agreements of the clients, and shall file the corrected surveys in the office of the county surveyor. Upon satisfactory compliance herewith, any such complaints shall be presented to the Land Surveyors Section for closure.

Dated this 18TH day of April, 1991.

STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

by 

G. Robert Sheffers, R.L.S.
Chairman

STATE OF WISCONSIN
BEFORE EXAMINING BOARD OF ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF
THE INVESTIGATION OF

NORMAN HARRISON, R.L.S.,

Licensee

STIPULATION

Norman Harrison, R.L.S. (Harrison), and the Examining Board (board), having reached agreement on disposition of the informal complaint identified as 89 LSR 001, agree and stipulate as follows:

1. This Stipulation shall be made a part of a Memorandum and Order on Settlement Conference to be issued by the board, and all terms of the Stipulation shall be binding on Mr. Harrison as a part of the board's order.
2. This Stipulation and the board's order shall be placed in Mr. Harrison's permanent file, and may be used if there are further complaints against him.
3. Mr. Harrison is licensed to practice as a land surveyor in Wisconsin by license #1394, issued on February 16, 1977, and he resides at 670 County Trunk MM, Oregon, Wisconsin 53575.
4. At all times material to this matter, Mr. Harrison was employed by Mortgage Survey Associates, Madison, Wisconsin.
5. On or about December 26, 1986, Anchor Savings and Loan, Madison, Wisconsin, by employee Sherry Lloyd, engaged Mortgage Survey Associates to perform what is commonly referred to as a "mortgage survey" on a property at 3568 Tally Ho Lane, Madison. The terms of the Survey Order issued by Anchor Savings were as follows:

In accordance with Wisconsin Administrative Code, it is understood that this survey will include the following:

1. The survey will uncover but not place monuments and only found-monuments will be placed on the map (A-E 5.01, (3, 5.d)),
2. The map will show the length and bearings of boundaries recorded on the plat or certified survey with minimum linear measurement accuracy of 0.1 ft. and bearings and angles measured to the nearest degree (A-E 5.01 (5.c,6)).

6. Because the original plat of the lot contained only one bearing, and because the boundary dimension tolerances were not specified, and because monuments marking the front of the property were not found, A. Kaub, P.E., an employee of Mortgage Survey Associates, spoke by telephone to Ms. Lloyd regarding the survey. The notes of that conversation are as follows:

Called Sherry Lloyd & told her the house is definitely on the lot but because of the lack of property irons in the front of the lot, I could not provide an accurate drawing. She said she only wanted something to show the house is on the lot. Told her the tolerance would be 1-2 feet on any measurements and she said OK. Told her this should have a survey to get better tolerance. She said no, only need this to grant loan and to show house is on lot. She said 2 ft is OK.

7. On January 7, 1987, Mr. Harrison signed and sealed a survey document depicting the property in question which carried the following certification:

I have surveyed the above described property and the above map is a true representation thereof and shows the size and location of the property, its exterior boundaries, the location and dimensions of all visible structures thereon, apparent easements and roadways and visible encroachments, if any.

This survey is made for the exclusive use of those who mortgage or guarantee title to the above within (1) one year from the date hereof: and as to them I certify the accuracy of said survey and map, and with them agreement has been made that the requirements of Wisc. Admin. Code [AE 5.01(3), (5)c&d, and (6)] are waived as per AE 5.01.

The map carried a note which specified "The tolerance of this inspection is [plus or minus] 2.0 ft."


8. The waiver set forth on the map fails to name the parties agreeing to the waiver, fails to include a description in plain language of the requirements not complied with, and fails to reflect the signed waiver agreement with Anchor Savings and Loan, as required by Wis. Adm. Code sec. A-E 5.01(1)(b) (1984).

9. The requirement at Wis. Adm. Code sec. A-E 5.01(5)(b) that the map be referenced as provided in Wis. Stats. sec. 59.61, was not met and was not waived.

10. The parties agree that appropriate discipline to be imposed based on the noted violations is a reprimand, and that respondent shall bring the survey into compliance with the signed waiver agreement with Anchor Savings and loan and into compliance with the certification on the survey map, and that respondent shall file the corrected survey in the office of the county surveyor.

11. Should further complaints be received by the Land Surveyors Section wherein it is alleged that prior to January 1, 1991, and in the course of Mr. Harrison's employment with Mortgage Survey Associates, he has performed mortgage surveys similar to the survey which is the subject of this Stipulation, and that such surveys fail to meet the requirements of Wis. Adm. Code sections A-E 5.01(1)(b) in the same manner as has been found herein, Mr. Harrison agrees that he shall bring any such surveys into compliance with the waiver agreement with the client, and that he shall file the corrected surveys in the office of the county surveyor. The Land Surveyors Section agrees that upon satisfactory demonstration of compliance herewith, such complaints shall be presented to the section for closure.

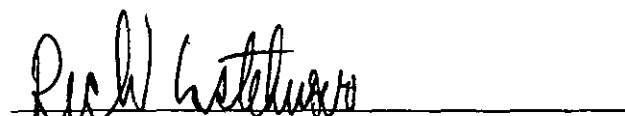
Dated this 16th day of March, 1990.


Gregory J. Paradise
Attorney for Mr. Harrison

Dated this 18 day of February, 1990.

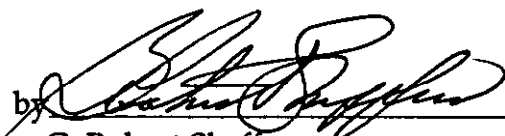

Norman Harrison, R.L.S.

Dated this 11th day of April, 1990.


Richard Castelnovo, Attorney for the
Department of Regulation & Licensing

Dated this 18th day of April, 1998.

EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

by _____

G. Robert Sheffers

Chairman, Land Surveyors Section

MORTGAGE SURVEY ASSOCIATES

900 John Nolen Drive

Suite 155

Madison, WI 53713

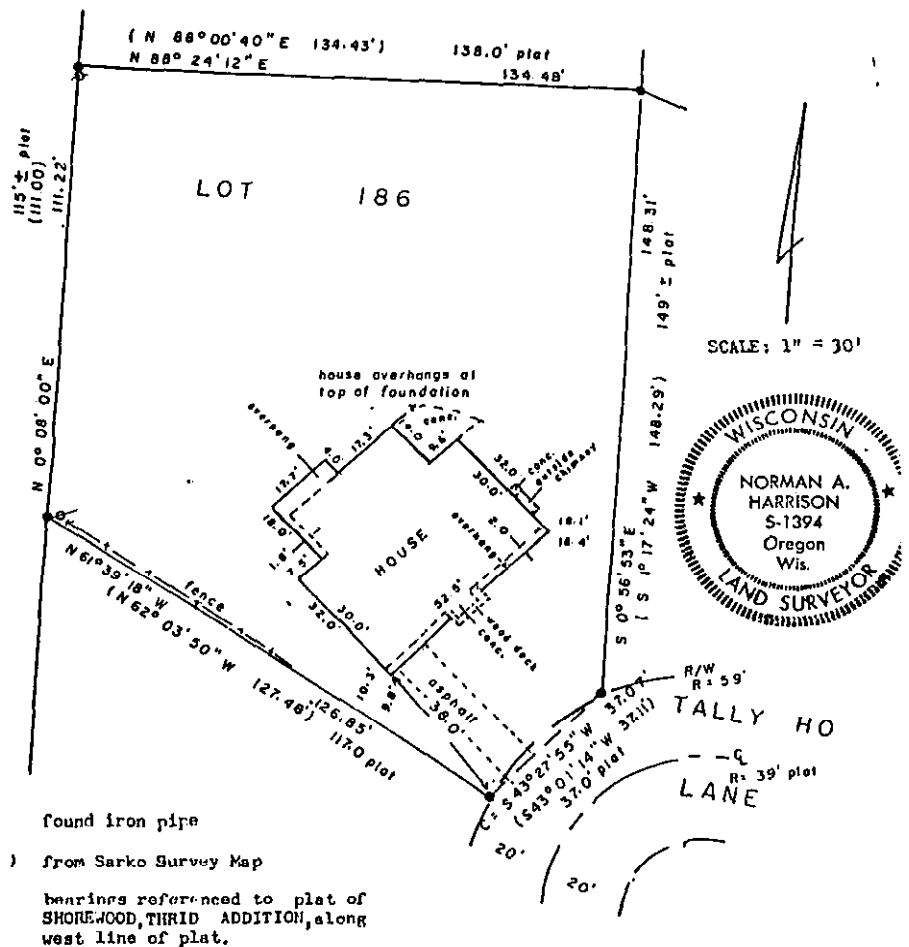
608-257-6722

Residential and Commercial Mortgage Inspection and Survey
Registered Engineers & Surveyors

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S
A

ALTA MORTGAGE INSPECTION DESCRIPTION: Lot 186, Shorewood Third Addition in the Village of Shorewood Hills, Dane County, Wis.
OWNER: Sundaralingan 3568 Tally Ho Lane, Madison, Wis.
REQUESTED BY: Anchor Savings & Loan

CORRECTION MAP



I have inspected the above described property and to the best of my knowledge and belief the above map is a representation thereof and shows the size and location of the property, its exterior boundaries, the location and dimensions of all visible structures thereon, boundary fences, apparent easements and roadways, and visible encroachments, if any, as determined by apparent lot corners and/or occupation lines.

This inspection is made for the exclusive use of those who mortgage or guarantee title to the above and pursuant to Ch. A-E 7 of the Wisconsin Administrative Code, an agreement has been reached with (hereinafter "Client") under which all requirements of Ch. A-E 7 have been waived, including but not limited to 7.01(1), 7.03, 7.04, 7.05, 7.06, 7.07 and 7.08, as provided for in A-E 7.01(2), with the following exceptions:

Accordingly, this mortgage inspection survey does not comply with the requirements of Ch. A-E 7, the same having been waived by written agreement between the surveyor and the Client.

Dated this 25 Day of February, 1991 Surveyor Norman A. Harrison

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each and the identification
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Board of Architects, Professional Engineers, Designers and Land Surveyors.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Board of Architects, Professional Engineers, Designers and Land Surveyors.

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Board of Architects, Professional Engineers, Designers and Land Surveyors.

The date of mailing of this decision is April 23, 1991.

WLD:dms
886-490